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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bills were introduced in Lok Sabha on the 10th March, 1975:—

BILL No. 15 OF 1975

A Bill further to amend the Indian Trusts Act, 1882 and the Unit Trust of India Act, 1963.

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

Short title and commencement.

1. (1) This Act may be called the Trust Laws (Amendment) Act, 1975.

(2) Sections 3, 4 and 5 shall come into force at once; section 6 shall come into force on the 1st day of April, 1975; and the remaining provisions of this Act shall be deemed to have come into force on the 7th day of January, 1975.

2 of 1882.

Amendment of section 20.

2. In section 20 of the Indian Trusts Act, 1882,—

(a) in clause (e), the word "or", occurring at the end, shall be omitted;

(b) after clause (e), the following clause shall be inserted, namely:—

"(ee) in units issued by the Unit Trust of India under any unit scheme made under section 21 of the Unit Trust of India Act, 1963; or";

52 of 1963.

(c) in clause (f), after the words "expressly authorized by the instrument of trust,", the words "or by the Central Government by notification in the Official Gazette," shall be inserted.

Insertion of new section 3A.

3. In the Unit Trust of India Act, 1963 (hereinafter referred to as the Unit Trust Act), after section 3, the following section shall be inserted, namely:— 52 of 1963.

Prohibition against the use of the words "Unit Trust", "Unit" or "Units" as a part of the name of any person other than the Trust.

'3A. (*1*) No individual or group of individuals, or company, other than the Trust, who or which accepts money by way of any loan, deposit, investment or similar other transaction, shall use the word or words "Unit Trust", "Unit" or "Units" as a part of his or its name.

Explanation.—For the removal of doubts it is hereby declared that nothing in this sub-section shall be deemed to prevent any individual or group of individuals, or company from describing any scrip or other security issued by him or it for any amount which has been received and repayable by him or it in the course of transaction of any business which is of the nature of a unit trust or mutual fund, as a unit certificate or units, as the case may be.

(*2*) If any provision of sub-section (*1*) is contravened, any person guilty of such contravention shall be punished with fine which may extend to two thousand rupees, and where the contravention is a continuing one, with a further fine which may extend to one hundred rupees for every day after the first during which the contravention continues.

(*3*) Where any provision of sub-section (*1*) has been contravened by a company, every person who at the time of such contravention was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the contravention and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment provided herein if he proves that the contravention was made without his knowledge or that he had exercised all due diligence to prevent the contravention.

(*4*) Notwithstanding anything contained in sub-section (*3*), where any offence under this section has been committed with the consent or connivance of, or is attributable to, any neglect on the part of, any director, manager, secretary or other officer, such director, manager, secretary or other officer shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

(*5*) No court shall take cognizance of any offence punishable under this section except upon a complaint in writing made by an officer of the Trust generally or specially authorized in writing in this behalf by the Trust and no court inferior to that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try such offence.

Explanation.—For the purposes of this section,—

(*a*) "company" means any body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.'.

4. In section 14 of the Unit Trust Act, in sub-section (2), in clause (*a*), the words "and shall be eligible for re-appointment" shall be, and shall be deemed always to have been, inserted at the end. **Amendment of section 14.**

5. In section 21 of the Unit Trust Act,— **Amendment of section 21.**

(*i*) in sub-section (2), after clause (*g*), the following clause shall be inserted, namely:—

"(*ga*) the application for, and the holding of, or dealing with, units by any parent of a minor;";

(*ii*) after sub-section (2), the following sub-sections shall be inserted, namely:—

'(*2A*) Where any parent of a minor holds, deals with or makes any application for the purchase of a unit on behalf of the minor, the provisions of the scheme, in pursuance of which the unit had been issued, shall be binding on the minor.

(*2B*) Where the payment of any sum becomes due on, or in respect of, any unit held on behalf of a minor, such payment shall, subject to the provisions of the scheme, be made to the parent by whom the purchase of such unit was applied for or by whom such unit was acquired, as the case may be, and such parent shall be entitled to receive such payment for and on behalf of the minor; and in the event of the death of the said parent, such payment shall be made to the lawful guardian of the minor.

Explanation.—References in this section to "parent" shall be construed as including references to step-parent.'.

6. In section 32 of the Unit Trust Act.— **Amendment of section 32.**

(*i*) in sub-section (*1*)—

(*a*) after the words "anything contained in", the words and figures "the Wealth-tax Act, 1957" shall be inserted; 27 of 1957.

(*b*) after clause (*a*), the following clauses shall be inserted, namely:—

'(*b*) in the case of an assessee being—

(*i*) an individual, or

(*ii*) a Hindu undivided family, or

(*iii*) an association of persons or a body of individuals consisting only of husband and wife governed by the system of community of property in force in the Union territories of Dadra and Nagar Haveli and Goa, Daman and Diu,

there shall be allowed, in computing the total income of the assessee, for the purposes of the Income-tax Act, 1961, a further deduction of an amount equal to so much of the income in respect of units received by the assessee during the previous year as has not been allowed by way of deduction 43 of 1961

under section 80L of the Income-tax Act, 1961, so, however, that the amount to be deducted under the provisions of this clause shall not exceed two thousand rupees. 43 of 1961.

Explanation.—In this clause, the expressions "assessee", "previous year" and "total income" shall have the meanings respectively assigned to them in the Income-tax Act, 1961; 43 of 1961.

(*ba*) in the case of an assessee, being an individual or a Hindu undivided family, wealth-tax shall not be payable by the assessee in respect of, and there shall not be included in, the net wealth of the assessee computed under the Wealth-tax Act, 1957, so much of the assets in the form of units as have not been excluded from the net wealth of the assessee under section 5 of that Act; so, however, that the value of the assets excluded under this clause shall not exceed twenty-five thousand rupees. 27 of 1957.

Explanation.—In this clause, the expressions "assessee" and "net wealth" shall have the meanings respectively assigned to them in the Wealth-tax Act, 1957.'; 27 of 1957.

(*ii*) in sub-section (2), in clause (c), for the words "three thousand rupees", wherever they occur, the words "five thousand rupees" shall be substituted.

Substitution of new sections for section 39.

7. For section 39 of the Unit Trust Act, the following sections shall be substituted, namely:—

No trust to be taken notice of.

"39. Except to the extent provided in, and except in accordance with the regulations made under this Act, no notice of a trust, express, implied or constructive, shall be receivable by the Trust.

Nomination by unit holders and agents.

39A. (*1*) Notwithstanding anything contained in any other law for the time being in force,—

(*a*) where a nomination in respect of any units has been made in accordance with the regulations made under this Act, the amount payable to the unit holder in respect of the said units shall, on the death of the unit holder but subject to any right, title, claim or other interest of any other person to or in respect of the said units as provided in such regulations, and subject to any charge or encumbrance over the said units, vest in, and be payable to, the nominee;

(*b*) where any person appointed by the Trust as an agent for soliciting or procuring any business, including the sale of units, has nominated, in accordance with the regulations made under this Act, any person or a social or charitable institution, to receive the commission or other remuneration payable to him after his death, such commission or other remuneration shall, on the death of the person making the nomination, be payable to his nominee:

Provided that nothing contained in this section shall affect any nomination made before the date on which the Trust Laws (Amendment) Act, 1975, receives the assent of the President.

(2) A payment by the Trust under sub-section (1) shall be a full discharge to the Trust, from all liability in respect of the units, or, as the case may be, the commission or other remuneration.

Protection of certain amounts from attachment.

39B. Notwithstanding anything contained in any other law for the time being in force, the amount standing to the credit of a contributing institution shall not be liabile to attachment under any decree or order of any court in respect of any debt or liability incurred by the contributing institution.".

Amendment of section 43.

8. In section 43 of the Unit Trust Act, in sub-section (2),—

(i) in clause (n), the word "and" occurring at the end shall be omitted;

(ii) after clause (n), the following clause shall be inserted, namely:—

"(nn) the extent to which and the circumstances under which nominations may be recognized and trusts may be taken notice of; and".

Repeal and saving.

1 of 1975

9. (1) The Trust Laws (Amendment) Ordinance, 1975, is hereby repealed.

2 of 1882

(2) Notwithstanding such repeal, anything done or any action taken under the Indian Trusts Act, 1882, or the Unit Trust Act, as amended by the said Ordinance, shall be deemed to have been done or taken under the Indian Trusts Act, 1882 or Unit Trust Act, as amended by this Act.

STATEMENT OF OBJECTS AND REASONS

During the last few months there was a spurt in the redemption of the units issued by the Unit Trust of India causing a serious impact on the liquidity of the Unit Trust of India. To curb this trend and to provide incentive for fresh investments in units of the Unit Trust of India, the President promulgated an Ordinance on the 7th January, 1975, amending the Unit Trust of India Act, 1963, and the Indian Trusts Act, 1882.

The amendments envisage the grant of further relief from income-tax to the extent of Rs. 2.000 for income from units over and above the existing limit of Rs. 3,000 already available under section 80L of the Income-tax Act, 1961, in respect of certain approved investments including units, and also provide for further exemption up to Rs. 25,000 from wealth-tax on investment in units over and above the existing exemption limit under section 5 of the Wealth-tax Act, 1957 in respect of the investments including units specified in that section. The Ordinance specifies that the units of the Unit Trust of India will be eligible to be treated as trustee securities under the Indian Trusts Act, 1882, and the amounts payable to the nominees of the unit-holders will, subject to certain conditions, vest in the nominees.

The Bill seeks to replace the above Ordinance with certain modifications specified in a separate memorandum appended to the Bill.

NEW DELHI; C. SUBRAMANIAM.

The 21st February, 1975.

PRESIDENT'S RECOMMENDATION UNDER ARTICLES 117 AND 274 OF THE CONSTITUTION OF INIDA

[Copy of letter No. 727-Dir(Inv)/75, dated the 24th February, 1975 from Shri C. Subramaninam, Minister of Finance, to the Secretary-General, Lok Sabha.]

The President having been informed of the subject-matter of the Bill further to amend the Indian Trusts Act, 1882 and the Unit Trust of India Act, 1963, recommends, under clause (*1*) of article 117 and clause (*1*) of article 274 of the Constitution of India, the introduction of the said Bill in the Lok Sabha.

MEMORANDUM REGARDING DELEGATE LEGISLATION

Clause 8 of the Bill seeks to insert a new clause in sub-section (2) of section 43 of the Unit Trust of India Act, 1963 empowering the Board to make regulations with regard to the extent to which and circumstances under which nominations may be recognized by the Unit Trust and notice of trusts may be taken.

2. The matters in respect of which such regulations may be made are matters of detail and it is not practicable to provide for them in the Bill, The delegation of legislative power is, therefore, of a normal character.

Memorandum explaining the modifications contained in the Bill to replace the Trust Laws (Amendment) Ordinance, 1975

The Bill seeks to include three new provisions in the Bill by which the Trust Laws (Amendment) Ordinance, 1975, is proposed to be replaced, namely:—

(i) Clause 3 of the Bill seeks to insert a new section in the Bill Trust of India Act, 1963, namely, section 3A, providing for the prohibition against the use of the words "Unit Trust", "Unit" or "Units" as a part of the name of any person other than the Unit Trust of India;

(ii) Clause 4 of the Bill seeks to amend section 14 of the Unit Trust of India Act, 1963, to make the Chairman of the Unit Trust of India eligible for re-appointment on the expiry of his term of office;

(iii) Clause 5 of the Bill seek to amend section 21 of the Unit Trust of India Act, 1963, to empower the parent, including step-parent, of a minor to acquire, or deal in, units on behalf of the minor.

2. Clause 6 of the Bill further seeks to make a minor verbal alteration in clause (ba) of sub-section (1) of section 32 of the Unit Trust of India Act, 1963 (as inserted by the Ordinance) with a view to making the intention clear.

3. Some verbal alterations of a drafting nature have also been made in new section 39A, as inserted by section 4 of the Ordinance, so as to clarify and enlarge the scope of nominations by unit holders and agents.

ANNEXURE

EXTRACT FROM THE INDIAN TRUSTS ACT, 1882.

(2 OF 1882)

* * * * *

20. Where the trust-property consists of money and cannot be applied immediately or at an early date to the purposes of the trust, the trustee is bound (subject to any direction contained in the instrument of trust) to invest the money on the following securities, and on no other:— Investment of trust-money.

* * * * *

(*e*) on a first mortgage of immovable property situate in any part of the territories to which this Act extends:

Provided that property is not a leasehold for a term of years and that the value of the property exceeds by one-third, or, if consisting of buildings, exceeds by one-half, the mortgage-money; or

(*f*) on any other security expressly authorized by the instrument of trust, or by any rule which the High Court may from time to time prescribe in this behalf:

* * * * *

EXTRACTS FROM THE UNIT TRUST OF INDIA ACT, 1963

(52 OF 1963)

* * * * *

14. (*1*)* * * * Chairman and executive trustee.

(*2*) The Chairman or the executive trustee shall—

(*a*) hold office for such term not exceeding five years as the Reserve Bank may specify;

* * * * *

32. (*1*) Notwithstanding anything contained in the Income-tax Act, 1961, the Super Profits Tax Act, 1963, the Companies (Profits) Surtax Act, 1964, or in any other enactment for the time being in force relating to income-tax, super-tax, super profits tax, surtax or any other tax on income, profits or gains— Income-tax and other taxes.

43 of 1961.
14 of 1963.
7 or 1964.

(*a*) the Trust shall not be liable to pay income tax, super-tax, super profits tax, surtax or any other tax in respect of any income, profits or gains derived by it from any source;

* * * *

(*2*) Notwithstanding anything contained in section 193 or section 194 of the Income-tax Act, 1961—

43 of 1961.

* * * * *

(c) where in the case of a unit-holder, being an individual who is not resident in India, the income in respect of units receivable by him from the Trust during the financial year—

(*i*) does not exceed three thousand rupees, no deduction of income-tax shall be made by the Trust from the income distributed to him;

(*ii*) exceeds three thousand rupees, deduction of income-tax shall be made by the Trust from the whole of the income distributed to him at the rate of fifteen per cent. of such income.

* * * * *

No trust to be taken notice of and protection from attachment.

39. (*1*) No notice of a trust, express, implied or constructive, shall be receivable by the Trust.

(*2*) The amount standing to the credit of a contributing institution shall not be liable to attachment under any decree or order or any court in respect of any debt or liability incurred by the contributing institution.

* * * * *

Regulations.

43. (*1*)* * * * *

(*2*) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

* * * * *

(*n*) the establishment and maintenance of provident or other benefit funds for officers and other employees of the Trust; and

* * * * *

BILL NO. 14 OF 1975

A Bill further to amend the Agricultural Refinance Corporation Act, 1963.

BE it enacted by Parliament in the Twenty-sixth Year of the Republic of India as follows:—

Short title and commencement.

1. (*1*) This Act may be called the Agricultural Refinance Corporation (Amendment) Act, 1975.

(*2*) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Amendment of section 1.

2. (*1*) In section 1 of the Agricultural Refinance Corporation Act, 1963 (hereinafter referred to as the principal Act), in sub-section (*1*), after the word "Refinance", the words "and Development" shall be inserted.

(*2*) Any reference to the Agricultural Refinance Corporation Act, 1963, in any other law for the time being in force, or in any instrument or other document, shall be construed as a reference to the Agricultural Refinance and Development Corporation Act, 1963.

1 of 1963.

Amendment of section 2.

3. In section 2 of the principal Act,—

(*i*) for clause (c), the following clause shall be substituted, namely:—

'(c) "central land development bank" means the principal land development bank in a State (by whatever name called),

which is registered, or deemed to be registered, under the Co-operative Societies Act, 1912, or any other law for the time being in force in any State relating to co-operative societies and the primary object of which is the providing of long-term finance for agricultural development: 2 of 1912.

Provided that, in addition to such principal land development bank in a State, or where there is no such bank in a State, the State Government may, with the previous approval of the Reserve Bank, declare any co-operative society carrying on business in that State and authorised by the bye-laws of such co-operative society to provide long-term finance for agricultural development, to be a central land development bank within the meaning of this Act;';

(*ii*) in clause (*e*), after the word "Refinance", the words "and Development" shall be inserted;

(*iii*) in clause (*f*),—

(*a*) in sub-clause (*i*),—

(*1*) for the words "central land mortgage bank", the words "central land development bank" shall be substituted,

(*2*) the word "and", occurring at the end, shall be omitted;

(*b*) in sub-clause (*ii*), for the words "central land mortgage bank", the wrods "central land development bank" shall be substituted;

(*c*) after sub-clause (*iii*), the following sub-clause shall be inserted, namely:—

"(*iv*) such other institution as may, on the recommendation of the Reserve Bank, be approved by the Central Government in this behalf;".

Amendment of heading to Chapter II.

4. In Chapter II of the principal Act, in the heading, after the word "REFINANCE", the words "AND DEVELOPMENT" shall be inserted.

Insertion of new section 3A.

5. After section 3 of the principal Act, the following section shall be inserted, namely:—

Change of name of "Agricultural Refinance Corporation".

"3A. (*1*) On the commencement of the Agricultural Refinance Corporation (Amendment) Act, 1975, the Corporation established under section 3 and known as the Agricultural Refinance Corporation shall be renamed as the Agricultural Refinance and Development Corporation.

(*2*) The change of name of Agricultural Refinance Corporation by sub-section (*1*) shall not—

(*a*) affect any right or obligation of that Corporation subsisting immediately before the commencement of the Agricultural Refinance Corporation (Amendment) Act, 1975;

(*b*) render defective any suit or other legal proceeding pending, immediately before such commencement, by or against that Corporation in its former name; and

(*c*) affect the institution, continuation or commencement of any suit or other legal proceeding which could have been instituted, continued or commenced, by or against that Corporation in its former name before such commencement.".

Amendment of section 4.

6. In section 4 of the principal Act, for the words "in other places in India", the words "anywhere in India" shall be substituted.

Amendment of section 5.

7. In section 5 of the principal Act,—

(*i*) in sub-section (*2*), in clause (*b*), for the words "central land mortgage banks", the words "central land development banks" shall be substituted;

(*ii*) in sub-section (*5*), after the words "the remaining shares", the words, brackets and figure "referred to in sub-section (*1*)" shall be inserted;

(*iii*) after sub-section (*5*), the following sub-sections shall be inserted, namely:—

"(*5A*) **Notwithstanding anything contained in sub-section (*1*), on the commencement of the Agricultural Refinance Corporation (Amendment) Act, 1975, the Reserve Bank may, with the previous approval of the Central Government, increase the authorised capital of the Corporation up to one hundred crores of rupees, such further capital also being divided into fully paid-up shares of ten thousand rupees each.**

(*5AA*) **Notwithstanding anything contained in sub-section (*5*), out of the further capital issued pursuant to the increase of the authorised capital under sub-section (*5A*), the Reserve Bank shall, and the institutions mentioned in clauses (*b*) and (*c*) of sub-section (*2*) may, subscribe for such shares in such manner and in such proportion, as may be prescribed.**

(*5AB*) **The Reserve Bank shall not, at any time, hold less than fifty per cent. of the further capital of the Corporation which is issued pursuant to the increase of the authorised capital under sub-section (*5A*).**

(*5AC*) **The allotment of shares, issued pursuant to the increase of the authorised capital under sub-section (*5A*), shall be made by the Board in accordance with the regulations made in this behalf and if any such shares remain unallotted, they shall be subscribed for by the Reserve Bank:**

Provided that the Reserve Bank may dispose of such shares to any institution mentioned in clause (*b*) or clause (*c*) of sub-section (*2*):

Provided further that no such disposal shall be made, if as a result of such disposal, the shares held by the Reserve Bank in the further capital of the Corporation, issued pursuant to the increase of the authorised capital under sub-section (*5A*), will fall below fifty per cent. of such further capital.".

Amend-ment of section 7.

8. In section 7 of the principal Act, for the words "Banking Companies Act", the words "Banking Regulation Act" shall be substituted.

Amend-mentof section 10.

9. In section 10 of the principal Act, in clause (*d*), for the words "central land mortgage banks", the words "central land development banks" shall be substituted.

Amend-ment of section 17.

10. In section 17 of the principal Act, in sub-section (*3*), after the words "as it may decide", the words "and every committee so constituted shall discharge such functions as may be prescribed or may be delegated to it by the Board" shall be inserted.

Amend-ment of section 20.

11. In section 20 of the principal Act, in sub-section (*1*),—

(*a*) in clause (*c*), the word "and", occurring at the end, shall be omitted;

(*b*) in clause (*d*), for the words "a central land mortgage bank", the words "a central land development bank" shall be substituted; and the word "and" shall be inserted at the end;

(*c*) after clause (*d*), the following clause shall be inserted, namely:—

"(*e*) **receive gifts, grants, donations or benefactions from Government or any other source and such gifts, grants, donations or benefactions shall not be treated as the income, profits and gains of the Corporation.**".

Amend-ment of section 22.

12. In section 22 of the principal Act,—

(*a*) in sub-section (*3*),—

(*i*) in clause (*b*), after the words, brackets and figures "in sub-clause (*ii*)", the words, brackets and figures ", or sub-clause (*iv*)," shall be inserted;

(*ii*) for clause (*c*) and the proviso thereto, the following clause shall be substituted, namely:—

"(*c*) the purchasing of, or subscribing to, the bonds or debentures of any eligible institution, repayable within a period not exceeding twenty-five years from the dates on which they are issued and the selling of such bonds or debentures;";

(*iii*) in clause (*d*),—

(*1*) the words "from outside India" shall be omitted;

(*2*) in sub-clause (*i*), after the words, brackets and figures "in sub-clause (*ii*)", the words, brackets and figures ", or sub-caluse (*iv*)," shall be inserted;

(*iv*) in clause (*e*), for the words "or debentures subscribed for or to be subscribed for, by such Government; and", the words "or bonds or debentures purchased or subscribed for, or to be purchased or subscribed for, by such Government;" shall be substituted;

(*v*) after clause (*e*), the following clause shall be inserted, namely:—

"(*ea*) undertaking researches, surveys and techno-economic studies on its own, or through an agency approved by the Corporation in this behalf, where, in the opinion of the Corporation, doing so may facilitate the exercise by the Corporation of its powers and functions or the discharge of its duties; and";

(*b*) in sub-section (*4*), in the first proviso, in clause (*ii*), after the words "guarantee is necessary", the words "in respect of an eligible institution, or any class of eligible institutions or having regard to the nature and scope of the scheme or schemes for which such accommodation is granted by the Corporation" shall be inserted;

(*c*) in sub-section (5), the words "or for the purpose of providing working capital" shall be omitted.

Omission of section 23

13. Section 23 of the principal Act shall be omitted.

Amendment of section 30.

14. In section 30 of the principal Act,—

(*i*) in sub-section (*1*), for the words "by an auditor duly qualified to act as auditor", the words "by one or more auditors duly qualified to act as auditor or auditors of companies" shall be substituted;

(*ii*) in sub-section (*2*), in sub-section (3) and in sub-section (*4*), for the words "The auditor", the words "Every auditor" shall be substituted;

(*iii*) in sub-section (*5*),—

(*a*) for the words "The auditor", the words "The auditor or auditors" shall be substituted;

(*b*) for the words "accounts examined by him and in every such report he shall state whether in his opinion", the words "accounts examined by him or them, as the case may be, and in every such report he or they shall state whether in his or their opinion" shall be substituted;

(*c*) for the words "in case he had called for any explanation", the words "in case he or they had called for any explanation" shall be substituted.

Amendment of section 40.

15. In section 46 of the principal Act,—

(*i*) in sub-section (*2*), after clause (*a*), the following clause shall be inserted, namely:—

"(*aa*) the manner in which and the proportion in which the shares of the Corporation shall, or may, be subscribed for after the authorised capital of the Corporation has been increased beyond twenty-five crores of rupees;";

(*ii*) for sub-section (5), the following sub-section shall be substituted, namely:—

"(5) Every regulation made under this section shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the regulation or both Houses agree that the regulation should not be made, the regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that regulation.".

STATEMENT OF OBJECTS AND REASONS

This Bill seeks to amend the Agricultural Refinance Corporation Act, 1963 with a view to incorporating and emphasising the developmental and promotional role of the Agricultural Refinance Corporation in addition to its refinancing role. It seeks to enlarge the scope of 'eligible institutions' by permitting certain institutions, approved by the Central Government to seek direct finance from the Corporation. The scope of activities of the Corporation is also sought to be enlarged by providing for integrated credit, including long-term and short-term credit, to the eligible institutions. The Reserve Bank is being empowered to increase, with the previous approval of the Central Government, the authorised capital of the Corporation up to one hundred crores of rupees, with a view to enabling the Corporation to meet its increased obligations. A provision has been made to enable the Corporation to accept grants, gifts, donations or benefactions from the Central Government or any other source.

2. Opportunity has also been taken to make certain amendments intended to rationalise or clarify existing provisions of the Act.

3. The notes on clauses explain in detail the various provisions contained in the Bill.

NEW DELHI; C. SUBRAMANIAM.

The 17th February, 1975.

Notes on clauses

Clause 2.—The Bill seeks to re-name the "Agricultural Refinance Corporation" as "Agricultural Refinance and Development Corporation". Hence, the clause sekes to make a consequential alteration in the short title of the Act.

Clause 3.—Sub-clause (i) seeks to insert a new definition of "central land development bank" in place of the definition of "central land mortgage bank". Sub-clause (iii)(a) and (b) seeks to substitute the expression "central land development bank" in place of "central land mortgage bank". Sub-clause (iii)(c) empowers the Central Government to approve, on the recommendation of the Reserve Bank, any other institution as an eligible institution.

Clause 4.—This clause seeks to alter, in the heading of the Chapter, the name of the Corporation and is consequential to the alteration of the name of the Corporation.

Clause 5.—This clause seeks to re-name the Agricultural Refinance Corporation, established under section 3 of the Act, as the Agricultural Refinance and Development Corporation and seeks to make consequential saving provisions.

Clause 6.—Section 4, as it now stands, requires the Corporation to establish its head office in Bombay and further empowers the Corporation to establish regional offices in any other place in India. The existing provisions of section 4 thus restrict the power of the Corporation to establish a regional office in Bombay. The proposed amendment seeks to remove this restriction.

Clause 7.—This clause seeks to empower the Corporation to increase its authorised capital up to 100 crores of rupees. Sub-section (5) of section 5 is, therefore, proposed to be amended to make it clear that reference to the shares referred to therein is construed as a reference to the shares forming part of the capital issued in the first instance by the Corporation. So far as the further capital issued by the Corporation is concerned, the clause seeks to provide that the Reserve Bank and the institutions mentioned in clauses (b) and (c) of sub-section (2) of section 5 may subscribe for such shares in such manner and in such proportion as may be prescribed by rules; but the Reserve Bank shall not hold at any time less than 50 per cent. of the further capital issued by the Corporation The clause further seeks to provide that the allotment of shares, issued in pursuance of the increase in the authorised capital of the Corporation, shall be made by the Board in accordance with the regulations made in this behalf and if any shares remain unallotted such shares shall be subscribed for by the Reserve Bank. The Reserve Bank has been given power to dispose of such unallotted shares subscribed for by it to the institutions referred to in clauses (b) and (c) of sub-section (2) of section 5: so, however, that the shares held by the Reserve Bank, out of the further capital issued by the Corporation, shall not at any time be less than 50 per cent. of the further capital so issued

Clause 8.—The short title of the Banking Companies Act, 1949, has been changed to the Banking Regulation Act, 1949, and in view of this change in the short title of that Act, a consequential amendment is proposed to be made in section 7.

Clause 9.—This clause sees to substitute "central land development banks" in place of "central land mortgage banks" and is consequential to the amendment made by clause 3.

Clause 10.—This clause seeks to vest in the Board of directors the authority to constitute, in addition to the Executive Committee, committees for discharging such specified functions as may be prescribed or may be delegated to it by the Board.

Clause 11.—The amendments made by sub-clauses (a) and (b) are of a consequential nature; and sub-clause (c) seeks to insert new clause (e) in section 20 to empower the Corporation to receive gifts, grants, donations or benefactions from Government or any other source and further seeks to provide that such gifts, grants, donations or benefactions shall not be treated as the income or profits and gains of the Corporation.

Clause 12.—The amendments proposed to be made by sub-clause (a) (i) are of a consequential nature. Sub-clause (a) (ii) seeks to substitute a new clause for clause (c) and the new clause so proposed to be substituted empowers the Corporation to purchase, or subscribe to, the bonds or debentures of any eligible institution repayable within a period not exceeding 25 years and also seeks to empower the Corporation to sell such bonds or debentures.

Clause (d) of sub-section (3) of section 22, as it now stands, permits the Corporation to guarantee deferred payments in connection with the purchase of capital goods from outside India. The restriction on the power of the Corporation to stand such guarantee the purchase of capital goods within India is being removed by omitting the words "from outside India" from the clause.

Sub-clause (a)(v) sekes to empower the Corporation to undertake researches, surveys and techno-economic studies on its own or through an agency approved by the Corporation.

Sub-section (5) of section 22, as it now stands, prohibits the Corporation from guaranteeing any loan or advance for the purpose of providing working capital. This restriction is being removed.

Other amendments proposed by the clause are of a consequential nature.

Clause 13.—This clause seeks to omit section 23, which prohibits the Corporation from entering into any transaction involving an amount exceeding 50 lakhs of rupees. This is proposed to be done in the interests of the operational efficiency of the Corporation.

Clause 14.—This clause empowers the Corporation to appoint more than one auditors to audit its accounts. This has become necessary in view of the rapidly expanding business of the Corporation.

Clause 15.—The amendments proposed to be made by sub-clause (i) are of consequential nature and the amendments proposed to be made by sub-clause (ii) are in pursuance of the recommendation made by the Committee on Subordinate Legislation.

FINANCIAL MEMORANDUM

Clause 7, sub-clause (iii) of the Bill seeks to enlarge section 5 of the Agricultural Refinance Corporation Act by inserting new sub-sections (5A), (5AA), (5AB), and (5AC) so as to increase the authorised capital of the Corporation from the existing level of Rs. 25 crores to Rs. 100 crores.

Under section 6 of the Agricultural Refinance Corporation Act, 1963, shares of the Corporation are guaranteed by the Central Government as to the repayment of principal and the payment of a minimum annual dividend at such rate as may be fixed by the Central Government by notification in the Official Gazette at the time of issuing the shares. The liability of the Government of India in guaranteeing the shares as to the repayment of the principal and payment of a minimum annual dividend is a contingent liability. It is, therefore, not possible at this stage to anticipate when and how such liability, which is to be borne by the Central Government, would arise, and indicate the amount which may be involved in such a guarantee. If and when such liability comes to be borne by the Central Government, the same will have to be covered by appropriate Budget sanction at the relevant time.

Clause 11, sub-clause (c) of the Bill seeks to insert clause (e) to section 20 of the Agricultural Refinance Corporation Act to permit the Corporation to accept grants, gifts, donations or benefactions from Government or from any other source.

It would not be possible at this stage to anticipate the nature and extent of liability which may have to be borne by the Central Government if the Government decide to provide gifts, grants, donations or benefactions to the Corporation. Any decision to this effect would necessarily be taken by the Government on merit in individual cases, which will be backed with appropriate Budget sanction at the relevant time.

The Bill does not envisage any other recurring or non-recurring expenditure.

MEMORANDUM REGARDING DELEGATED LEGISLATION

New sub-sections (5AA) and (5AC) proposed to be inserted in the Agricultural Refinance Corporation Act, 1963 (*vide* clause 7 of the Bill) read with the amendment to section 46 of the Act (*vide* clause 15 of the Bill) seek to confer power on the Board of Directors of the Agricultural Refinance Corporation to make regulations to provide for the manner in which and the proportion in which the shares of the Corporation shall, or may, be subscribed for after the authorised capital of the Corporation has been increased beyond twenty-five crores of rupees.

2. The matters with respect to which regulations may be made are matters of procedure and detail and it is hardly possible to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

ANNEXURE

EXTRACTS FROM THE AGRICULTURAL REFINANCE CORPORATION ACT, 1963

(10 OF 1963)

* * * * *

CHAPTER I

PRELIMINARY

Short title, extent and commencement.

1. (*1*) This Act may be called the Agricultural Refinance Corporation Act, 1963.

* * * * * *

Definitions.

2. In this Act, unless the context otherwise requires,—

* * * * * *

(*c*) "central land mortgage bank" means the principal land mortgage bank in a State which is registered, or deemed to be registered, under the Co-operative Societies Act, 1912 or any other law for the time being in force in any State relating to co-operative societies and the primary object of which is the providing of long-term finance for agricultural development: 2 of 1912.

Provided that in addition to such principal land mortgage bank in a State or where there is no such bank in a State, the State Government may, with the previous approval of the Reserve Bank, declare any one or more land mortgage banks registered or deemed to be registered as aforesaid and carrying on the business of providing long-term finances for agricultural development in that State to be a central land mortgage bank or banks within the meaning of this definition;

* * * * * *

(*e*) "Corporation" means the Agricultural Refinance Corporation established under this Act;

(f) "eligible institution" means—

(*i*) a central land mortgage bank or a State co-operative bank or a scheduled bank, being in each case a shareholder of the Corporation; and

(*ii*) a co-operative society (other than a central land mortgage bank or a State co-operative bank) approved by the Reserve Bank in this behalf;

* * * * * *

CHAPTER II

ESTABLISHMENT AND CAPITAL OF THE AGRICULTURAL REFINANCE CORPORATION

* * * * * *

Offices and Agencies.

4. The Corporation shall establish its head office in Bombay and may, with the previous approval of the Reserve Bank, establish offices or agencies in other places in India.

Share capital and shareholders.

5. (*1*) The authorised capital of the Corporation shall be twenty-five crores of rupees divided into twenty-five thousand fully paid-up shares of ten thousand rupees each of which five thousand shares of the total value of five crores of rupees shall be issued in the first instance, and the remaining shares may, with the sanction of the Central Government, be issued from time to time by the Corporation as and when the Corporation may deem fit.

(*2*) Of the capital issued in the first instance and before such date as may be notified by the Central Government in the Official Gazette in this behalf—

* * * * * *

(*b*) central land mortgage banks and State co-operative banks may subscribe for one thousand five hundred shares;

* * * * * *

(5) If and when the remaining shares or any part thereof are issued, the Reserve Bank shall, and the institutions referred to in clauses (*b*) and (*c*) of sub-section (*2*) may, subscribe for such shares in the same proportion as for the first issue and the provisions of sub-sections (*3*) and (*4*), except clause (*ii*) of the proviso to sub-section (*4*), shall also apply to such shares.

* * * * * *

Shares of Corporation to be deemed to be securities for certain purposes.

7. Notwithstanding anything contained in the Acts hereinafter mentioned in this section, the shares of the Corporation shall be deemed to be included among the securities enumerated in section 20 of the Indian Trusts Act, 1882, and be also deemed to be approved securities for the purposes of the Insurance Act, 1938 and the Banking Companies Act, 1949.

2 of 1882.
4 of 1938.
10 of 1949

* * * * * *

Board of directors.

10. The Board of directors shall consist of the following, namely:—

* * * * * *

(*d*) one director elected in the prescribed manner by such of the central land mortgage banks as are shareholders of the Corporation;

* * * * * *

Provided that on the first constitution of the Board, the directors referred to in clauses (*d*), (*e*) and (*f*) shall be nominated by the Central Government and the directors so nominated shall, for the purposes of this Act, be deemed to be elected directors:

Provided further that the directors so nominated shall hold office until the conclusion of the first annual general meeting of the Corporation.

* * * * * *

Committees of Corporation.

17. (*1*) * * * * * *

(*3*) The Board may constitute such other committees, whether consisting wholly of directors or wholly of other persons or partly of directors and partly of other persons as it thinks fit and for such purposes as it may decide.

* * * * * *

Borrowings by Corporation.

20. (*1*) The Corporation may, for the purpose of carrying out its functions under this Act, with the previous approval of the Central Government—

* * * * *

(*c*) borrow money from the Central Government and from any other authority or organisation or institution approved by that Government, on such terms and conditions as may be agreed upon; and

(*d*) accept from the Central Government, a State Government, a local authority, a central land mortgage bank, a State co-operative bank, a scheduled bank or any person, deposits repayable after the expiry of a period which shall not be less than twelve months from the date of the making of the deposit and on such other terms as the Corporation may, with the prior approval of the Reserve Bank, fix.

* * * * *

Business which the Corporation may transact.

22. (*1*) * * * * *

(*3*) Subject to the provisions of sub-sections (*1*) and (*2*), the Corporation may transact the several kinds of business hereinafter specified, namely:—

* * * * *

(*b*) the granting of loans and advances otherwise than by way of refinance to an eligible institution mentioned in sub-clause (*ii*) of clause (*f*) of section 2 repayable within a period not exceeding twenty-five years from the dates on which they are granted;

(*c*) the subscribing to the debentures of any eligible institution repayable within a period not exceeding twenty-five years from the dates on which they are issued:

Provided that repayment of principal and payment of interest thereon are fully and unconditionally guaranteed by Government;

(*d*) the guaranteeing, with the prior approval of the Central Government and on such terms and conditions as may be agreed upon, of deferred payments in connection with the purchase of capital goods from outside India,

(*i*) due from an eligible institution mentioned in sub-clause (*ii*) of clause (*f*) of section 2; or

(*ii*) due from any other person and guarantee to the Corporation by one of the eligible institutions mentioned in sub-clause (*f*) of section 2:

(*e*) acting as agent for the Central Government or a State Government in the transaction of any business with an eligible institution in respect of loans and advances granted or to be granted, or debentures subscribed for or to be subscribed for, by such Government; and

* * * * * *

(4) No accommodation shall be granted under clause (*a*), clause (*b*) or clause (*d*) of sub-section (3) to an eligible institution unless it is fully and unconditionally guaranteed by Government as to the repayment of principal and payment of interest:

Provided that no such guarantee shall be required in cases in which—

(*i*) security, to the satisfaction of the Board, is furnished by the eligible institution, or

(*ii*) the Board, for reasons to be recorded by it in writing, decides that no such security or guarantee is necessary:

Provided further that any sums received by an eligible institution in repayment or realisation of loans and advances refinanced either wholly or partly by the Corporation shall, to the extent of the accommodation granted by the Corporation remaining outstanding, be deemed to have been received by the eligible institution in trust for the Corporation, and shall accordingly be paid by such eligible institution to the Corporation:

Provided also that in cases where accommodation has been granted to an eligible institution without obtaining such guarantee or security, all securities held, or which may be held, by such eligible institution, on account of any transaction in respect of which such accommodation has been granted by the Corporation, shall be held by such eligible institution in trust for the Corporation.

* * * * *

Limit of accommodation.

(5) The Corporation shall not grant any loan or advance on the security of its own shares, bonds or debentures or for the purpose of providing working capital.

* * * * *

23. The Corporation shall not, without the prior approval in writing of the Reserve Bank, enter into any transaction under clause (*a*) or clause (*b*) or clause (*c*) of sub-section (3) of section 22 involving an amount exceeding fifty lakhs of rupees.

* * * * *

Audit.

1 of 1956.

30. (*1*) The affairs of the Corporation shall be audited by an auditor duly qualified to act as auditor under sub-section (*1*) of section 226 of the Companies Act, 1956, who shall be appointed by the Board with the previous approval of the Reserve Bank and shall receive such remuneration from the Corporation as the Board may, with the approval of the Reserve Bank, fix:

Provided that the first auditor shall be appointed by the Reserve Bank within one month from the establishment of the Corporation on such terms and conditions as the Reserve Bank may determine.

(2) The auditor so appointed shall hold office from the conclusion of an annual general meeting of the Corporation until the conclusion of the next annual general meeting:

Provided that the first auditor shall hold office until the conclusion of the first annual general meeting.

(3) The auditor shall be supplied with a copy of the annual balance-sheet of the Corporation and it shall be his duty to examine it together with the accounts and vouchers relating thereto and he shall have a list delivered to him of all books kept by the Corporation and shall at all reasonable times have access to the books, accounts, vouchers and other documents of the Corporation.

(4) The auditor may, in relation to the accounts of the Corporation, examine any director of the Board or any officer or employee of the Corporation, and shall be entitled to require from the officers of the Corporation such information and explanation as he may think necessary for the performance of his duties.

(5) The auditor shall make a report to the Corporation upon the annual balance-sheet and accounts examined by him and in every such report he shall state whether in his opinion the balance-sheet is a full and fair balance-sheet containing all necessary particulars and properly drawn up so as to exhibit a true and fair view of the state of affairs of the Corporation and in case he had called for any explanation or information from the Board, whether it has been given and whether it is satisfactory.

* * * * *

Powers of Board to make regulations.

46. (1) * * * * *

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for—

(a) the manner in which and the conditions subject to which the first allotment of shares of the Corporation shall be made;

* * * * *

(5) All regulations made under this Act shall be placed before each House of Parliament.

* * * * *

S. L. SHAKDHER,

Secretary-General.

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